

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE SIDE

## WRIT PETITION NO.1847 OF 2007

Balu Sopan Gore & Anr.....Petitioners

Vs.

Gulab Sopana Gore Patil & Ors..Respondents

Mr. P.S. Dani, for the petitioners

Mr. S.K. Shinde i/b. Shri V.B. Konde Deshmukh for  
respondent No.1.

Mr. V.P. Malwankar, AGP for respondent Nos. 3 and 5.

Mr. U.B. Nighot for respondent NO.2.

**CORAM : F.I. REBELLO &**

**R.M.SAVANT, JJ.**

**DATED : 15th June, 2007**

**P.C.**

. Rule. Heard forthwith. The grievance of the petitioner is that an appeal was filed by the respondent No.1. The same came up for hearing on 22nd November, 2005. It was pointed out to the Appellate Authority that the documents filed by the respondent No.1 had not been made available. It is their further case that the matter thereafter was adjourned and second hearing took place on 21st June, 2006 on which date by a written application of the same date it was pointed out that the documents were not made available. The Appellate Authority without making available to the petitioners the documents adjourned the matter and passed the order thereafter after nine months.

2. After hearing the learned Counsel we find that the petitioners were denied a fair opportunity of being heard. There is no order shown to us, if there be any, that the Appellate Authority had passed an order rejecting the application filed by the petitioners herein. In the light

of that the impugned order dated 20th February, 2007 is set aside. The matter is remanded back to the Appellate Authority to dispose of the same according to law at any rate not later than three months from today. It is further made clear that the Appellate Authority before deciding the Appeal will decide the application of the petitioner for making available the said documents. Petition made absolute accordingly. There shall be no order as to costs.

**(F.I.REBELLO, J)**

**(R.M. SAVANT,J)**